

PATENT
574313-3160

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s) : Audonnet et al.
Serial No. : 09/677,672
For : ADJUVANT-CONTAINING DNA VACCINES
Filed : October 2, 2000
Examiner : Dave Nguyen
Art Unit : 1632

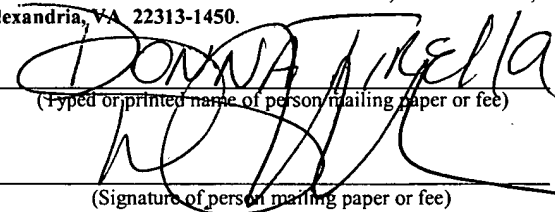
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PETITION REQUESTING REFUND OF FEES AND WITHDRAWAL OF FINALITY

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Applicants hereby request that the finality of the April 25, 2004 Office Action be withdrawn in view of the errors on the part of the Patent Office whereby the COMMUNICATION FORWARDING DECLARATION UNDER 37 C.F.R. §1.132 was not considered by the Examiner. An Amendment in response to the April 25, 2004 final Office Action was filed on October 25, 2004 forwarding an unexecuted §132 Declaration. An Advisory Action was mailed on November 8, 2004, wherein it was indicated that while the Amendment was to be entered in the application, the Declaration did not place the application in condition for allowance as it was not executed. The Communication Forwarding Declaration Under 37 C.F.R. §1.132 was mailed November 12, 2004, but was never considered by the Examiner. Applicants

have been advised by SPE Ram Shukla that the November 12, 2004 Communication was erroneously regarded as a paper filed after a non-final Office Action, such that the Examiner did not review the executed Declaration forwarded therewith and therefore did not issue a further Advisory Action.

In order to maintain the pendency of the present application, Applicants herewith have filed a Request for Extension of Time and a Request for Continued Examination wherein it is requested that the November 12, 2004 Communication and the accompanying executed Declaration be considered.

As Applicants verily believe that the filing of the Request for Extension of Time and Request for Continued Examination are a direct result of the Patent Office's failure to accurately identify the Communication filed November 12, 2004 and to treat the Communication as fits a paper filed after final, Applicants hereby request withdrawal of the finality of the April 24, 2005 Office Action such that the application would remain pending without a Request for Continued Examination; and, Applicants request the refund of any and all fees associated with the Request for Extension of Time and the Request for Continued Examination filed herewith as a result of the Patent Office's failure to consider the Communication and Declaration filed November 12, 2004.

A prompt and favorable decision on this petition withdrawing the finality of the April 25, 2004 Office Action and returning any and all fees associated with the Request for Extension of Time and the Request for Continued Examination filed June 1, 2005, is respectfully requested. To the extent that a fee for this petition is required, the Commissioner is hereby authorized to charge any required fees, or credit any overpayment in fees, to Deposit Account 50-0320.

Respectfully submitted,

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